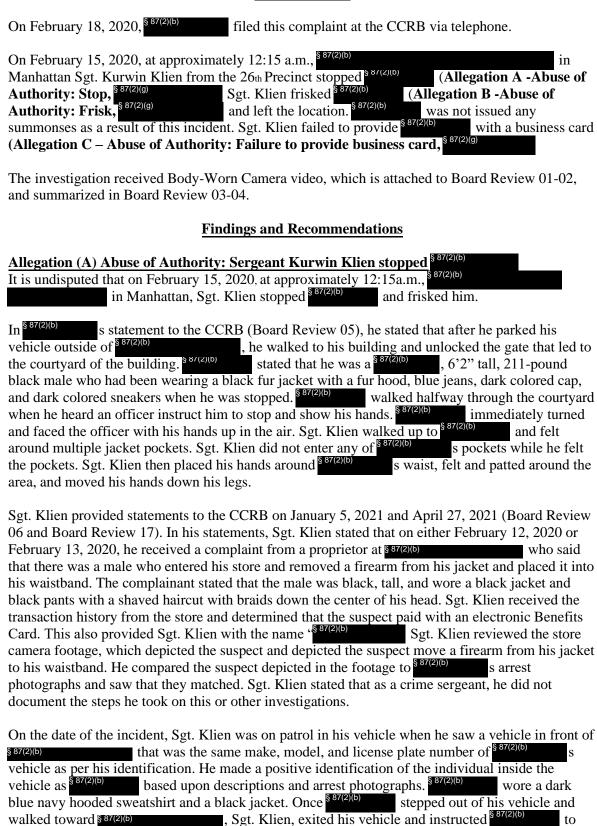
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	☐ U.S.
Shadman Khan		Squad #12	202001322	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Saturday, 02/15/2020 12:15 AM		§ 87(2)(b)		26	8/15/2021	4/1/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	e Received at CCI	₹B
Tue, 02/18/2020 1:22 PM	CCRB		Phone	Tue, 02/18	Tue, 02/18/2020 1:22 PM	
Complainant/Victim	Type	Home Address				
Subject Officer(s)	Shield	TaxID	Command			
1. SGT Kurwin Klien	00254	942016	026 PCT			
Witness Officer(s)	Shield N	Tax No	Cmd Name			
1. POM Vincent Johnson	08537	948055	026 PCT			
Officer(s)	Allegatio	on		Inve	estigator Recon	nmendation
A.SGT Kurwin Klien	Abuse: Sergeant Kurwin Klien stopped § 87(2)(b)					
B.SGT Kurwin Klien	Abuse: Sergeant Kurwin Klien frisked § 87(2)(b)					
C.SGT Kurwin Klien	Abuse: Sergeant Kurwin Klien failed to provide (5) with a business card.					

Case Summary



CCRB Case # 202001322

faced Sgt. Klien and raised his hands, which allowed Sgt. Klien to see that his

hooded sweatshirt and jacket pockets contained objects. The objects that he saw seemed hard and weighed down inside of \$87(2)(b) so pockets. Sgt. Klien stated that the locations where he saw the objects fit the general description of where the initial complainant saw the gun. Sgt. Klien did not recall the size of shape of the objects in the hoodie and jacket pockets. Sgt. Klien frisked \$7(2)(b) s sweater pockets, inner and outer pockets, and waistband area to check for firearms. Due to the nature of the complaint which involved a firearm and the unknown objects in \$87(2)(b) s pockets, Sgt. Klien frisked his pockets and waist area. Sgt. Klien did not recall what kind of objects he felt during the frisk of \$87(2)(b)

In Sgt. Klien's BWC video, § 87(2)(b) is seen with his hands up in the air as Sgt. Klien feels around his front hooded sweatshirt pockets, inner jacket pockets, and waist area. At 00m21s of the timer, Sgt. Klien states, "We just had a situation right around the corner," but provides no other information about why §87(2)(b) was stopped or frisked. Sgt. Klein verbally provides his rank, name and shield number to \$87(2)(b) He states, "I would like to apologize for the inconvenience," and at 01m10sec, holds his hand out to \$87(2)(b) § 87(2)(b) does not shake his hand. Sgt. Klien and the officers begin to walk away, when \$87(2)(b) asks, "Two-six, right?" Sgt. Klien turns back and says, "Two-six, Sergeant Klien." The video does not depict that \$87(2)(b) made a request for any officer's identifying information. Sgt. Klien does not state that he does not have business cards. As he walks away, he repeats his name and provides his precinct number and leaves the courtyard. §87(2)(b) is seen wearing a dark blue hooded sweatshirt, a black jacket, dark colored pants, and a black hat. \$87(2)(b) shair style and color is obstructed from view due to the hat.

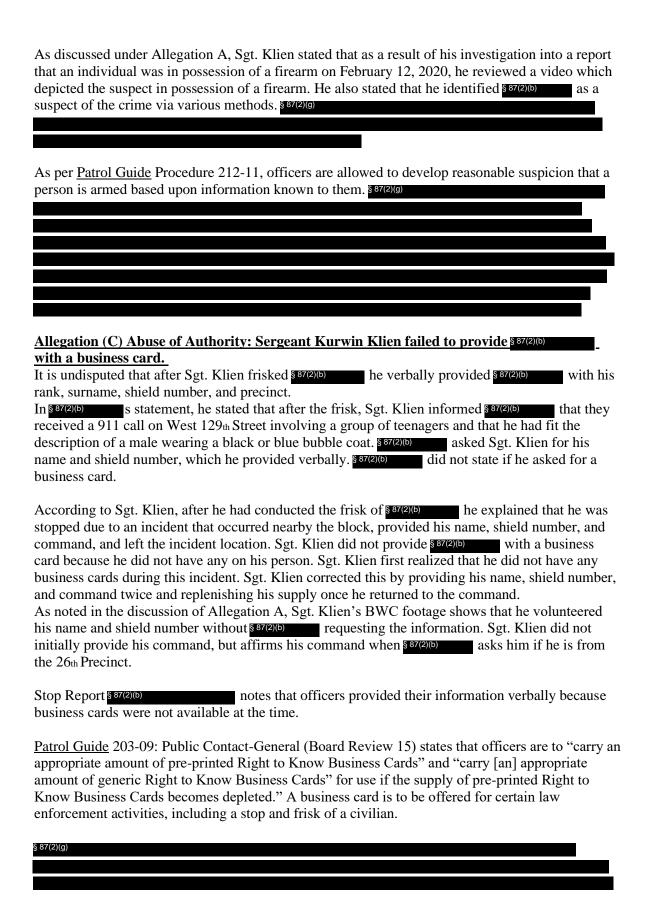
In PO Johnson's BWC video, at 00m30s of the timer, PO Johnson walks past a gate with Sgt. Klien in front of him. Sgt. Klien stops and both PO Johnson and Sgt. Klien ask to see his hands. The remainder of the video is consistent with what is seen in Sgt. Klien's BWC video.

The investigation received a 911 call and radio message (Board Review 07-08) made on February 12, 2020 from the Communications Division regarding an incident at [57(2)(5)] related to this complaint. In the 911 call, place at 11:07 p.m., a male caller provided the description of a black male who was greater than 5'8" tall, slim build, approximately 40 years old, and wore a blue jacket and brown hooded sweatshirt. In the radio message, placed at 11:12 p.m., an operator provided the description of a black male, approximately 6'2", slim build, approximately 40 years old, and wore a blue jacket and brown hooded sweatshirt. The operator also stated that the male went westbound on 128th Street. No information regarding the male's hairstyle was provided in either call.

The investigation received Stop Report (Board Review 13) generated on February 15, 2020. The report indicated that (Board Review 13) generated on a surveillance video for an incident, which described a black male, approximately 6'0" tall, corn rolls on the top of his head, shaved sides, and wearing a black coat. Additionally, the report indicated that a check of a Benefit card used during the incident matched (Board Review 13) generated on matched the description of a male seen in a surveillance video for an incident, which described a black male, approximately 6'0" tall, corn rolls on the top of his head, shaved sides, and wearing a black coat. Additionally, the report indicated that a check of a Benefit card used during the incident matched (Board Review 13) generated on February 15, 2020.

The investigation submitted a request for \$87(2)(b) On March 11, 2021, Internal Affairs informed the investigation that they could not provide a copy of the complaint report because there was an ongoing investigation, and directed the investigation to request the document on another date (Board Review 14).

In Sgt. Klien's memo book (Board Review 16), an entry regarding this incident stated that \$87(2)(b) was stopped due to a firearm investigation, which identified \$87(2)(b) to possibly be in possession of that firearm. The memo book does not contain any entries regarding the lack of business cards or that he provided his information to §87(2)(b) Patrol Guide Procedure 212-11: Investigative Encounters (Board Review 09) states that stop may be conducted only when a police officer had individualized suspicion that the person stopped has committed a felony or Penal Law misdemeanor. If the officer has reasonable suspicion at any point before or during the stop that the person is armed and dangerous, they may perform a frisk. The reasonable suspicion that a person is armed and dangerous may arise from circumstances of the encounter including information known by the officer that the suspect may be carrying a weapon, such as statements from a victim or witness. Sgt. Klien's stated that his decision to stop § 87(2)(b) was based on descriptions given to him by a complainant and an operator regarding an incident that occurred on February 12, 2020, three days prior to the stop. Sgt. Klien stated that on February 12, 2020, he used a check of a Benefits card used by the suspect, surveillance footage, and arrest photographs found using \$87(2)(5) s name to identify \$87(2)(b) Based on this, Sgt. Klien stated that he had reasonable suspicion to believe that §87(2)(b) was the male involved in the incident at the store and had reasonable suspicion that he may be armed. § 87(2)(9) Allegation (B) Abuse of Authority: Sergeant Kurwin Klien frisked \$87(2)(b) As discussed above, Sgt. Klien affirmed that he frisked \$87(2)(b) spockets and waist area, and provided as two explanations for frisk: his observation of a bulge created by unknown objects in s jacket and hooded sweatshirt pockets and the nature of the suspected crime which involved a firearm. In People v. Williams, 160 A.D.2d 397 (Board Review 18), the court, quoting People v. Wiley, 110 AD2d 590 and other cases, held that "the mere observation of an undefinable bulge in a person's pocket is insufficient as a basis for a frisk or search for a [handgun]," and that, "unlike a waistband bulge which is a telltale of a weapon, a pocket bulge could be caused by any number of innocuous objects."



§ 87(2)(g)			
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• § 87(2)(b) three o		an and Officer CCRB Histories o one CCRB complaint and has been d Review 10).	n named as a victim in
		r of service for 14 years and has beens, none of which were substantiate	
	<u>Media</u>	tion, Civil and Criminal Historie	<u>s</u>
 As of I Notice 		ble for mediation. New York City Office of the Comp n regards this to complaint (Board I	
Squad No.:	<u>12</u>		
Investigator:	<u>Shadman Khan</u> Signature	Investigator Shadman Khan Print Title & Name	May 5, 2021 Date
Squad Leader:	Carlmais Johnson Signature	IM Carlmais Johnson Print Title & Name	May 7, 2021 Date

Reviewer:			
	Signature	Print Title & Name	Date